



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Issued by the Department of Transportation on **July 23, 2004**

NOTICE OF ACTION TAKEN -- DOCKET OST-2004-17479

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Application of **BRENDAN AIRWAYS, LLC d/b/a USA 3000 AIRLINES** filed **4/2/04** for:

XX Exemption for two years under 49 U.S.C. §40109 to provide the following service:

Scheduled foreign air transportation of persons, property, and mail between: (1) the terminal point St. Louis, Missouri, and the terminal point Cancun, Mexico; and (2) the terminal point St. Louis, Missouri, and the terminal point Cozumel, Mexico. No party opposed the applicant's request for authority to serve the St. Louis-Cozumel market.¹

Applicant rep: **Pierre Murphy (202) 776-3980** DOT Analyst: **Linda L. Lundell (202) 366-2336**

DISPOSITION

XX Granted St. Louis-Cozumel exemption authority, subject to conditions (see below).

XX Deferred on the St. Louis-Cancun request (see below).

The action, above, granting exemption authority was effective when taken: **July 23, 2004**, through **July 23, 2006**.

The action to defer was effective: **July 23, 2004**.

Action taken by: Paul L. Gretch, Director
Office of International Aviation

XX The authority granted is consistent with the aviation agreement between the United States and Mexico.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

XX Holder's certificates of public convenience and necessity

XX Standard Exemption Conditions (attached)

Special Conditions/Remarks: The U.S.-Mexico exemption authority granted is subject to the dormancy notice requirements set forth in condition 7 of Appendix A of Order 88-10-2. Consistent with our policy, the dormancy notice period will begin November 1, 2004, the carrier's proposed start-up date for the St. Louis-Cozumel services.

The carrier's request to serve the St. Louis-Cancun market will be handled in the Department's recently established *2004 U.S.-Mexico Combination Service Proceeding* (Docket OST-2004-18692).² Under the U.S.-Mexico aviation agreement, two U.S. airlines may be designated to provide direct carrier service in any given city-pair market. Currently, one U.S. carrier is designated to provide such services in the St. Louis-Cancun market (TWA Airlines). Thus, only one designation is available for U.S. carrier service on this route. Three applications have been filed for the St. Louis-Cancun market (USA 3000's application here, along with applications from Frontier Airlines, Inc., in Docket OST-2004-17470; and Grand Holdings, Inc. d/b/a Champion Air, in Docket OST-2004-17408).

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¹ Competing applications and responsive pleadings were filed to the St. Louis-Cancun portion of the application (see remarks, below).

² Order 2004-7-17, issued July 21, 2004.

On the basis of data officially noticeable under Rule 24(g) of the Department's regulations, we found the applicant qualified to provide the services authorized.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; (2) grant of the authority was consistent with the public interest; and (3) grant of the authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975. To the extent not granted or deferred, we denied all requests in the referenced Docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within seven (7) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

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http://dms.dot.gov/reports_aviation.asp

U.S. Carrier Exemption Conditions

In the conduct of the operations authorized, the U.S. carrier applicant(s) shall:

- (1) Hold at all times effective operating authority from the government of each country served;
- (2) Comply with applicable requirements concerning oversales contained in 14 CFR 250 (for scheduled operations, if authorized);
- (3) Comply with the requirements for reporting data contained in 14 CFR 241;
- (4) Comply with requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (6) Comply with all applicable requirements of the Federal Aviation Administration and with all applicable U.S. Government requirements concerning security, including, but not limited to, 49 CFR Part 1544. To assure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) to or from a foreign airport, contact its International Principal Security Inspector (IPSI) to advise the IPSI of its plans and to find out whether the Transportation Security Administration has determined that security is adequate to allow such airport(s) to be served; and
- (7) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department of Transportation, with all applicable orders and regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

The authority granted shall be effective only during the period when the holder is in compliance with the conditions imposed above.